

AMENDED IN ASSEMBLY AUGUST 23, 2004

AMENDED IN ASSEMBLY AUGUST 17, 2004

AMENDED IN SENATE MARCH 26, 2004

**SENATE BILL**

**No. 1228**

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**Introduced by Senator Perata**

February 12, 2004

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An act to add Section 50662.8 to the Health and Safety Code, relating to housing assistance.

LEGISLATIVE COUNSEL'S DIGEST

SB 1228, as amended, Perata. Disaster relief: owner-occupied dwellings.

Existing law establishes within the State Treasury the Housing Rehabilitation Loan Fund, a fund continuously appropriated to the Department of Housing and Community Development for, among other purposes, making deferred payment rehabilitation loans and deferred payment loans. Existing law authorizes financial assistance for the purposes of repairing, including reconstructing, owner-occupied dwellings and rental dwellings of 1 to 4 units that were damaged or destroyed as a result of a natural disaster resulting in a state of emergency.

Existing law provides that the outstanding balance of loans for owner-occupied dwellings becomes due and payable after 30 years or when the borrower transfers ownership of the rehabilitated property or fails to occupy the rehabilitated property, whichever comes first. For rental dwellings the term of the loan is 20 years.

This bill would authorize loan assumption for the above-described loans for owner-occupied dwellings in specified circumstances. The

bill would require the department to, among other things, with respect to these loans for owner-occupied dwellings generally, annually mail statements with specified information to the borrowers of the loans and adopt a written application process and evaluation guidelines for borrowers pursuing loan subordination or assumption.

The bill would also authorize the department to delay the foreclosure of loans for owner-occupied dwellings if the department determines that its security interest is not jeopardized.

The bill would authorize the department to adopt guidelines to implement these provisions *and provide that these guidelines shall not be subject to the Administrative Procedure Act.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 50662.8 is added to the Health and  
2 Safety Code, to read:

3 50662.8. (a) Notwithstanding paragraph (1) of subdivision  
4 (d) of Section 50662.7, the department may allow the assumption  
5 of any loan made pursuant to subdivision (b) of that section for  
6 owner-occupied dwellings subject to all of the following  
7 conditions:

8 (1) The original borrower dies.

9 (2) The assumption is by a member of the original borrower's  
10 household and is a spouse, domestic partner, or child of the original  
11 borrower.

12 (3) The person assuming the loan has legal ownership of the  
13 home.

14 (4) The person assuming the loan will continuously reside in  
15 the home as his or her principal place of residence and will not  
16 transfer the home to any other person or entity. If the person  
17 assuming the loan moves to another residence or transfers the  
18 home to any other person or entity, the loan shall become  
19 immediately due and payable.

20 (5) The total income of the household assuming the loan is at  
21 or below 120 percent of the area median income, adjusted for  
22 household size.



(6) The department determines that requiring immediate repayment of the loan upon the borrower's death would be an economic hardship for the person assuming the loan.

(7) The assumption is for a period of time necessary to permit the person assuming the loan to repay the loan without economic hardship.

(b) The department may not permit subordination of a loan made pursuant to subdivision (b) of Section 50662.7 for owner-occupied dwellings except under the following circumstances:

(1) The total household income of the borrower's household is at or below 80 percent of the area median income, or, in the case of extreme hardship, where borrowing becomes necessary to either protect the health and safety of the occupants, or pay health care costs for the borrower's immediate family.

(2) The total principal of the loans senior to the department's loan is unchanged or decreased and the department's security interest is not jeopardized, as determined by the department.

(c) With respect to any loans made pursuant to subdivision (b) of Section 50662.7 for owner-occupied dwellings, the department shall do all of the following:

(1) Annually mail, by the end of January, to any borrower who has an outstanding balance a statement that provides all of the following information:

(A) The principal loan balance.

(B) The interest accrued to the date of the statement.

(C) The interest percentage rate.

(D) Payment instructions with a disclaimer that a payment may not be required until the outstanding loan balance is due and payable.

(E) Contact information, including a telephone number and mailing address for borrower inquiries.

(2) By July 1, 2005, adopt a written application process and evaluation guidelines to authorize the transfer of the borrower's loan obligations described in subdivision (a) or the subordination of the deed of trust. The department shall provide a summary of this process and the guidelines with all statements mailed on or before February 1, 2006.

(3) Mail to the party that applies to the department to subordinate or assume the loan, the department's decision to

1 approve or deny the application within 60 days of receipt, along  
2 with a statement of reasons for any denial.

3 (d) With respect to any loans made pursuant to subdivision (b)  
4 of Section 50662.7 for owner-occupied dwellings, the department  
5 may delay the foreclosure of the loan if the department determines  
6 that its security interest is not jeopardized.

7 (e) The department may adopt guidelines for implementation  
8 of this section. *These guidelines shall not be considered to be*  
9 *regulations as defined in Section 11342.600 of the Government*  
10 *Code and therefore shall not be subject to the Administrative*  
11 *Procedure Act (Chapter 3.5 (commencing with Section 11340) of*  
12 *Division 3 of Title 2 of the Government Code).*

